

REMARKS

Claims 1-21 are currently pending in the above-identified patent application.

In the above-identified Office Action the Examiner stated that applicants' response to the previous action requires new rejections that raise some similar issues to previous amendments, since the limitations do not have any apparent support in the original specification for the purpose of showing possession of the invention or for enabling one of skill in the art to understand what is being claimed. The Examiner continued that it is unclear how the command can be changed to be component specific, but not be changed in a component dependent fashion.

Although applicants believe that the phrase "... transmitting said one or more component specific commands to said component without component-dependent changes ...," as presented in Amendment C, clearly defines the transmission of component specific commands by the controller without change in these commands related to the component to which they are addressed, in response to the Examiner's concerns, applicants have amended claims 1, 8, and 15 to limit these claims to transmitting component specific commands verbatim, and transmitting action data verbatim. No new matter has been added, since support therefor may be found on page 7, lines 1-9, of the subject Specification, as originally filed, wherein it is stated that: "In block 314, the controller may send a command directly to the device. **In such a case, the controller may send a command to the device without any analysis or interpretation. The command may be sent verbatim.** In other cases, the controller may be capable of formatting, changing, or otherwise manipulating the command for a specific purpose. For example, the command as stored in the action may need to be transmitted on a particular set of output lines. In another example, the command may need to be shifted or changed prior to transmitting. Such an example may be used where the command, if stored verbatim in the script file would be incompatible with the file structure or otherwise become problematic." (Emphasis added by applicants.). Therefore, one embodiment of the subject Specification, as originally filed, teaches that component-specific changes may not be required to the script.

The Examiner objected to the Specification as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP §

608.01(o), stating that there is no way to properly interpret the scope of the claim limitations to component specific commands to said component without component-dependent changes, as there is no antecedent basis in the specification for this language. Applicants respectfully disagree with the Examiner concerning this objection since the Specification, as originally filed, clearly supports component specific commands being sent verbatim to a component.

Claims 1-21 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention since the Examiner stated that with regard to independent claims 1, 8, and 15, it is unclear why or how component specific commands are not commands with component-dependent changes, since it would seem that the added component specific commands are inherently component dependent. The Examiner continued that it is also unclear what is the limitation "without component dependent changes" is modifying, and that it is not clear what is not being changed as a result of this limitation. The Examiner concluded that as a result of this lack of clarity, there is no interpretation of the new limitation of the claim that is logically valid and, as a result, no new art rejection will be given in light of the new limitation. However, the Examiner interpreted the new limitation as just sending the command to the component after creating the command.

This last sentence by the Examiner in the previous paragraph is the interpretation of the claims that applicants intended by the amendments to independent claims 1, 8 and 15. As stated hereinabove, page 7, lines 1-9, of the subject Specification, as originally filed, recites: "In block 314, the controller may send a command directly to the device. **In such a case, the controller may send a command to the device without any analysis or interpretation. The command may be sent verbatim.** In other cases, the controller may be capable of formatting, changing, or otherwise manipulating the command for a specific purpose. For example, the command as stored in the action may need to be transmitted on a particular set of output lines. In another example, the command may need to be shifted or changed prior to transmitting. Such an example may be used where the command, if stored verbatim in the script file would be incompatible with the file structure or otherwise become problematic." (Emphasis added

by applicants.). Thus, applicants respectfully believe that the rejection of claims 1-21 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, is no longer proper in view of the present amendments to independent claims 1, 8 and 15.

Claims 2-7, 9-14, and 16-21 were rejected for incorporating the same indefinite subject matter of the independent claims from which they depend. In view of the amendments to independent claims 1, 8 and 15, applicants believe that this rejection has been overcome.

Claims 1, 2, 4-6, 8, 9, 11-13, 15, 16, and 18-20 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication 2003/0217358 to Thurston et al., since the Examiner stated that with regard to claims 1, 8, and 15, Thurston teaches packaging a communication sequence into a script by a method comprising (paragraph 29), providing said communication sequence that is a specific set of actions and action data (paragraphs 34-39); for each of said actions, creating an action header comprising an action code and one or more component specific commands (paragraphs 40-43), and creating an action payload comprising zero or more of said action data; transmitting said script to said controller (paragraphs 34-39); and communicating to said component of said system by running said script by said controller by a method comprising: providing said script to said controller (paragraphs 35-39); and for each of said action headers, executing a command corresponding to said action code (paragraphs 35-39 and 19-52), transmitting said one or more component specific commands directly to said component (paragraphs 35-39 and 19-52), and transmitting said zero or more of said action data from said action payload to said component (paragraphs 35-39 and 19-52). The Examiner continued that Thurston et al. teaches, by silence that no translation is occurring at the time of execution.

With regard to claims 2, 9, and 16, the Examiner stated that Thurston et al. teaches said packaging of said communication is performed by a first computer system that is separate from said system controlled by said controller (paragraphs 27-29); with regard to claims 4, 11, and 18, Thurston et al. teaches said method of packing said communication sequence further comprises: creating a header for said script

(paragraphs 40-43), said header comprising an identifier describing the specific component for which said script is intended (paragraphs 40-43); and said method of communicating to said component of said system by running said script by said controller further comprises, determining a descriptor of said component (paragraphs 40-43), comparing said descriptor of said component to said identifier contained within said header of said script (paragraphs 40-43); with regard to claims 5, 12, and 19, Thurston et al. teaches said method of packing said communication sequence further comprises: creating a header for said script (paragraphs 40-44), said header comprising a compatibility list comprising one or more applicable revisions of firmware on said specific component for which said script is applicable (paragraphs 44-47); and said method of communicating to said component of said system by running said script by said controller further comprises: determining a current firmware revision of said component; comparing said current firmware revision to said compatibility list contained within said header of said script (paragraphs 44-47); and with regard to claims 6, 13, and 20, Thurston et al. teaches said component is a hard disk drive (paragraph 27).

Applicants respectfully disagree with the Examiner concerning the rejection of claims 1, 2, 4-6, 8, 9, 11-13, 15, 16, and 18-20 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication 2003/0217358 to Thurston et al., for the reasons to be set forth hereinbelow.

Claims 3, 10, and 17 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication 2003/0217358 to Thurston et al. in further view of U.S. Patent 6,789,157 to Lilja et al. since the Examiner stated that with regard to claims 3, 10, and 17, Thurston et al. teaches said method of packing said communication sequence further comprises: creating a header for said script (Paragraphs 40-43), said header comprising a checksum (Paragraph 42); and said method of communicating to said component further comprises: reading said header of said script (Paragraph 53), computing a computed checksum of said script (Paragraph 53), comparing said computed checksum to said checksum contained within said header of said script (Paragraph 53), but Thurston et al. fails to teach a CRC. The Examiner continued that Lilja et al. teaches that using a firmware update with a CRC instead of a checksum, and concluded that it would have been obvious to one of

ordinary skill in the art at the time of invention to substitute the use of CRC of Lilja et al. for the checksum of Thurston et al. in order to more completely check whether the firmware has been corrupted during transmission.

Applicants respectfully disagree with the Examiner concerning the rejection of claims 3, 10, and 17 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication 2003/0217358 to Thurston et al. in further view of U.S. Patent 6,789,157 to Lilja et al., for the reasons to be set forth hereinbelow.

Claims 7, 14, and 21 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication 2003/0217358 to Thurston et al. and further in view of U.S. Patent Application Publication 2002/0166027 to Shirasawa et al., since the Examiner stated that with regard to claims 7, 14, and 21, Thurston et al. fails to teach the firmware update script package being used to update a RAID controller, while Shirasawa et al. teaches said controller is a RAID controller (Paragraphs 8 and 9). The Examiner concluded that it would have been obvious to one of ordinary skill in the art at the time of invention to use the firmware update script package of Thurston et al. for updating RAID firmware as taught by Shirasawa et al. in order to homogenize the ability of each of the hard disk units to increase process speed and decrease error occurrence.

Applicants respectfully disagree with the Examiner concerning the rejection of claims 7, 14, and 21 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication 2003/0217358 to Thurston et al. and further in view of U.S. Patent Application Publication 2002/0166027 to Shirasawa et al., for the reasons to be set forth hereinbelow.

Reexamination and reconsideration are requested.

Turning now to Thurston et al., where in Paragraph [0026] it is stated that: "Described implementations divide firmware updated operations into device-independent and device dependent steps. Implementations provide a device independent application coupled to a plurality of device dependent applications for updating firmware in hardware devices coupled to a computer system. The device independent application is an application that does not perform operations that are dependent on characteristics of the hardware devices coupled to the computer system.

The device dependent applications are applications that may contain operations that are dependent on characteristics of the hardware devices coupled to the computer system.” In paragraph [0038] of Thurston et al. it is set forth that: “The device dependent plug-in modules **306** are device dependent applications that may contain operations dependent on the characteristics of the hardware device **310, 311.**” In Paragraph [0069], Thurston et al. continues that: “The implementations provide a firmware update application for updating firmware on different types of hardware devices. The firmware update application comprises a device independent firmware update utility and a plurality of device dependent plug-in modules. The device independent firmware update utility initiates the update of firmware on a plurality of different types of hardware devices and requests device specific functions from device dependent plug-in modules. A different device dependent plug-in module may be provided for each type of hardware device. Thus the firmware update application separates device independent firmware update functions from device dependent update functions.” (Emphasis added by applicants.). Paragraphs [0038] and [0039] state that: “The device independent firmware updated utility **302** is a device independent application that does not perform operations that are dependent on characteristics of the hardware device **310, 311.** The device dependent plug-in modules **306** are device dependent applications that may contain operations dependent on characteristics of the hardware device **310, 311.** An entity, such as a software vendor, that creates the firmware updated application **200**, may provide a firmware package construction tool **314**, where the firmware package construction tool **314** may be used by different vendors to construct the firmware package **108a**. The firmware package construction tool **314** ensures that the data structure comprising the firmware package **108a** are compatible with the firmware update application **200.**” And in Paragraph [0046] Thurston et al. states that: “The device independent firmware update utility **302** extracts the list of properties package **402** from the firmware update package **108a** and forwards the firmware update package **108a** to the device dependent plug-in module **306**. In alternative implementations, the device independent firmware update utility **302** may extract the <name, value> pairs from the list of properties package **402** and forward the name value pairs to the device dependent plug-in module **306**. The device dependent plug-in module **306** uses the

<name, value> pairs to apply the dynamic constraints for the firmware update encapsulated in to the <name, value> pairs."

The above-quoted paragraphs from Thurston et al., along with FIG. 3 thereof clearly show the **requirement** of a device dependent plug-in module, **306** for installing firmware updates onto hardware devices. Further, claim 1 of Thurston et al. recites a device-independent firmware update utility: "A method for installing firmware, the method comprising: receiving a firmware image by a device independent application; and requesting a device dependent application to install the firmware image on at least one hardware device, wherein the at least one hardware device is determined by the device dependent application." (Emphasis added by applicants.). Thus, Thurston et al. additionally requires that the system controller request a device dependent application to install a firmware image after receiving a firmware image by a device independent application, and does not install firmware onto a target device as directed by an incoming script verbatim without changes to these directions.

By contrast, subject independent claims 1, 8 and 15, as amended, in part recite the following: "1. ... communicating to said component of said system by running said script by said controller by a method comprising: ... for each of said action headers, executing a command corresponding to said action code, transmitting said one or more component specific commands verbatim to said component, and transmitting said zero or more of said action data from said action payload verbatim to said component." (Emphasis added by applicants.).

Parallel recitations may be found in subject claims 8 and 15. Thus, the independent claims of the present invention require that component specific instructions are provided to a system controller to update a chosen component. As an example, the controller then transmits the one or more component specific commands verbatim, and without component specific changes to the action code, to the component. Further, the present, claimed system controller does not request component specific commands or functions from device dependent plug-in modules which **translate** the directions from the controller into commands the individual devices can process.

Therefore, applicants respectfully believe that Thurston et al. teaches away from the present claimed invention, and cannot anticipate the present claimed invention.

Dependent claims 2, 4-6, 9, 11-13, 16, and 18-20 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication 2003/0217358 to Thurston et al. Since applicants believe that independent claims 1, 8 and 15, as amended, are patentably distinguishable over Thurston et al. for the reasons set forth hereinabove, applicants believe that no further response is required with respect to the above-identified dependent claims.

Turning now to the rejection of dependent claims 3, 7, 10, 14, 17, and 21 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication 2003/0217358 to Thurston et al. in view of other references, since applicants believe that Thurston et al. teaches away from the present claimed invention and, in particular, from independent claims 1, 8, and 15, as amended, applicants believe that the Examiner has not made a proper *prima facie* case for obviousness as is required under 35 U.S.C. 103(a), because there would be no motivation to combine Thurston et al. with these references. See Sections X.D. 1. and X.D.2. of the Manual Of Patent Examining Procedure.

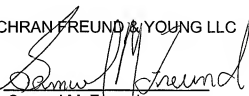
In view of the discussion presented hereinabove, applicants believe that subject claims 1-21, as amended, are in condition for allowance or appeal, the former action by the Examiner at an early date being earnestly solicited.

Reexamination and reconsideration are respectfully requested.

Respectfully submitted,

COCHRAN-FREUND & YOUNG LLC

By:


Samuel M. Freund
Reg. No. 30,459
2026 Caribou Drive, Suite 201
Fort Collins, Colorado 80525
Phone: (970) 492-1100
Fax: (970) 492-1101
Customer No.: 27479

Date: May 29, 2007